

Introduced by Senator Lara

February 26, 2015

An act to add Chapter 15 (commencing with Section 5975) to Division 6 of Title 1 of the Government Code, relating to infrastructure financing.

LEGISLATIVE COUNSEL'S DIGEST

SB 562, as introduced, Lara. Infrastructure financing: City of Long Beach Civic Center.

The Local Agency Public Construction Act prescribes procedures for contracting by local public agencies, including specific provisions for cities.

Existing law permits a governmental agency to solicit proposals and enter into agreements with private entities for the design, construction, or reconstruction by, and may lease to, private entities, for specified types of fee-producing infrastructure projects. Existing law permits these agreements to provide for the lease of, or ownership of, infrastructure facilities owned by a governmental entity, but constructed by a private entity, to that private entity for a period of up to 35 years.

This bill, notwithstanding the act and any other law, would authorize the City of Long Beach to contract and procure a project for the revitalization and redevelopment of the Long Beach Civic Center, as defined, in accordance with prescribed procedures for qualification, solicitation, proposal evaluation, and contract award. The bill would authorize the lease of the project to, or ownership by, a private entity or entities, for a term of up to 65 years. The bill would make a statement that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique and special circumstances

surrounding the existing Long Beach Civic Center, and the need to immediately, quickly, and efficiently develop the project, and to resolve property issues potentially delaying the project.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The City of Long Beach has experienced an increasing
4 demand to fund infrastructure repairs, replacements, and new
5 improvements.

6 (b) The existing civic center is nearing the end of its useful life
7 and contains significant seismic deficiencies that the City of Long
8 Beach seeks to address as soon as feasibly possible to ensure the
9 public's health and safety.

10 (c) The City Council of the City of Long Beach seeks to address
11 public health and safety in the earliest possible timeframe and
12 understands that the development of a new Long Beach Civic
13 Center using the public-private partnership procurement process
14 presents the most expedient route to protecting the safety of its
15 employees in and visitors to the civic center.

16 (d) The public-private partnership procurement process has
17 demonstrated precedence for the expedient, efficient, and
18 economical delivery of projects, through the delivery of the Long
19 Beach Courthouse, which was completed under budget and ahead
20 of schedule.

21 (e) The ability to utilize private sector investment capital is
22 essential to the development of a cost-effective and time-sensitive
23 Long Beach Civic Center.

24 (f) A public-private partnership procurement method provides
25 the City of Long Beach with an alternative and optional procedure
26 for developing a new civic center that can provide a cost-effective
27 benefit to the City of Long Beach by shifting the liability and risk
28 for cost containment, project completion, and life-cycle
29 maintenance to a private entity.

30 SEC. 2. Chapter 15 (commencing with Section 5975) is added
31 to Division 6 of Title 1 of the Government Code, to read:

CHAPTER 15. LONG BEACH CIVIC CENTER

5975. As used in this chapter:

(a) “Best interests of the city” means a procurement process that is determined by the city to reduce the project delivery schedule and total cost of the project while maintaining a high level of quality workmanship and materials.

(b) “Best value” means a value determined by objective criteria that may include, but are not limited to, price, features, functions, performance, life-cycle costs, experience, and other criteria deemed appropriate by the city.

(c) “Business entity” means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, engineering, financial, operations, management, facilities maintenance, and other services for development of a new Civic Center.

(d) “City” means the City of Long Beach.

(e) “Private entity” means an individual, business entity, or combination of individuals and business entities.

(f) “Project” means the revitalization and redevelopment of the Long Beach Civic Center, which is bounded by Broadway, Pacific Avenue, Ocean Boulevard, and Magnolia Avenue, containing approximately 15.87 acres, and may include additional property as deemed necessary by the city for the project.

(g) “Public-private partnership” means a cooperative arrangement between the public and private sectors, built on the expertise of each partner, that best meets the city’s needs through the appropriate allocation of resources, risks, and rewards for the purposes of, and, including, but not limited to, studying, planning, designing, constructing, developing, financing, operating, maintaining, or any combination thereof, the project.

5976. (a) Notwithstanding any provision of the Public Contract Code or any other law, the city may contract and procure the project pursuant to this chapter.

(b) The city may use a request for qualifications process to prequalify and shortlist the number of private entities that will be allowed to submit proposals. The request for qualifications shall generally describe the project, the private entity’s necessary qualifications and responsibilities, and the procurement process.

1 (c) The city shall gather information and prepare a solicitation
2 package for a public-private partnership, which shall generally
3 describe an approved process for methods of project delivery,
4 including a project description and requirements, process and
5 submission requirements, evaluation criteria, or any other
6 information deemed necessary by the city to describe adequately
7 the project requirements and procurement process.

8 (d) The city shall evaluate the proposals and make its
9 determination by choosing the private entity or entities whose
10 proposal is, or proposals are, judged as providing the best value
11 in meeting the best interests of the city and meeting the objectives
12 of the project. The city retains the right to hold and enter into a
13 negotiation process with selected private entities in performing
14 the evaluation and making its determination. The city may enter
15 into a public-private partnership through a lease-purchase,
16 lease-leaseback, or other appropriate agreements, with one or more
17 private entities for delivery of the project. The city may retain the
18 right to select all or any portion of any proposal or reject any or
19 all proposals as determined in the best interests of the city.

20 (e) The contract award for the project shall be made to the
21 private entity or entities whose proposal or proposals are
22 determined by the city, in writing, to be the most advantageous by
23 providing the best value in meeting the best interests of the city
24 and meeting the objectives of the project.

25 (f) The negotiation process shall specifically prohibit practices
26 that may result in unlawful activity, including, but not limited to,
27 rebates, kickbacks, or other unlawful consideration, and shall
28 specifically prohibit city employees from participating in the
29 selection process when those employees have a relationship with
30 a person or business entity seeking a contract under this chapter
31 that would subject those employees to the prohibition of Section
32 87100. Other than these criteria, the city is not subject to any other
33 provisions of the Public Contract Code or this code that relates to
34 procurement for the project.

35 (g) Notwithstanding any provision of this code, upon issuance
36 of an award for the project, the city shall publicly announce its
37 award, identifying the private entity or entities to whom the award
38 is made, along with a written decision supporting its award and
39 stating the basis of the award. All documents related to the project
40 shall be subject to disclosure under the California Public Records

1 Act (Chapter 3.5 (commencing with Section 6250) of Division 7),
2 except those exempted from disclosure under that act.

3 5977. (a) The project is subject to compliance with the
4 California Environmental Quality Act (Division 13 (commencing
5 with Section 21000) of the Public Resources Code). Neither the
6 act of selecting a private entity, nor the execution of an agreement
7 with the private entity, shall require prior compliance with the act.
8 However, appropriate compliance with the act shall thereafter
9 occur before project construction commences.

10 (b) The public portion of the project, at all times, shall be owned
11 by the city, unless the city, in its discretion, elects to provide for
12 ownership of the project by the private entity through a separate
13 lease agreement during the term of the agreement. Notwithstanding
14 Section 5956.6 or any other provision of this code, the agreement
15 shall provide for the lease of the project to, or ownership by, the
16 private entity or entities, for a term up to 65 years. In consideration
17 therefor, the agreement shall provide for complete reversion of the
18 project to the city at the expiration of the lease or transfer term.

19 (c) The plans and specifications for the project shall comply
20 with all applicable governmental design standards for that particular
21 infrastructure project. The private entity studying, planning,
22 designing, constructing, developing, financing, operating,
23 maintaining, or any combination thereof, the project shall utilize
24 private sector firms for studying, planning, designing, constructing,
25 developing, financing, operating, maintaining, or any combination
26 thereof, the project. However, a facility subject to this chapter and
27 leased to a private entity, during the term of the lease, shall be
28 deemed to be public property for purposes of identification,
29 maintenance, enforcement of laws, and for purposes of Division
30 3.6 (commencing with Section 810). All public works constructed
31 pursuant to this chapter shall comply with Chapter 1 (commencing
32 with Section 1720) of Part 7 of Division 2 of the Labor Code.

33 5978. The provisions of this chapter are severable. If any
34 provision of this chapter or its application is held invalid, that
35 invalidity shall not affect other provisions or applications that can
36 be given effect without the invalid provision or application.

37 5979. The Legislature finds and declares that a special law is
38 necessary and that a general law cannot be made applicable within
39 the meaning of Section 16 of Article IV of the California
40 Constitution because of the unique and special circumstances

- 1 surrounding the existing Long Beach Civic Center, and the need
- 2 to immediately, quickly and efficiently develop the project, and
- 3 to resolve property issues potentially delaying the project.

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